

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

APRIL M. VERCOE,
Charging Party,

-v-

MONTANA DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES,
Respondent

HRB CASE NO. 0220295

REMAND ORDER

Charging Party, April M. Vercoe (Vercoe), filed a complaint with the Department of Labor and Industry (Department) alleging unlawful discrimination in governmental services on the basis of marital status. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Vercoe's allegations that Respondent, Montana Department of Public Health and Human Services, unlawfully discriminated against Vercoe. The Department issued a Notice of Dismissal. Vercoe filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on November 17, 2022. Ms. Verco appeared and argued on her own behalf. Kenneth E. Varnes appeared and argued on behalf of Montana Department of Public Health and Human Services.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. Section 49-2-511(2), MCA. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is an abuse of discretion. Therefore, the Commission sustains the objection and the case is hereby remanded for hearing to the Office of Administrative Hearings pursuant to § 49-2-505, MCA.

Nothing in this order precludes the parties from engaging in the mediation or other settlement negotiations that would normally occur if the Department's investigative report had found cause. See § 49-2-504(2)(b), MCA.

IT IS HEREBY ORDERED, that April M. Vercoe's objection is **sustained**. The Commission reopens and remands the case to the Office of Administrative Hearings for hearing.

DATED this 28th day of November 2022.



Peter M. Damrow, Chair
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this 28th day of November 2022.

April M. Vercoe
4355 Micah Drive
Helena, MT 59602

Kenneth E. Varnes
Department of Public Health & Human Services
Office of Legal Affairs
PO Box 4210
Helena, MT 59604-4210



Annah Howard, Legal Secretary
Montana Human Rights Bureau